

## The WIRE's e-mail correspondence with Keith Guerra, Public Safety Director

Sent: 5/30/2009 2:35:25 PM  
Subject: It's happened again.

As I write this, your public safety officers have another resident in custody for taking a photograph. I have no further details because (a) they will not let me speak with him, (b) they snatched his cell phone away from him when he placed a call to me, and (c) "The supervisor cannot come to the telephone because she is in the back room." (This was after the supervisor did speak with me and put me on hold for 8 minutes.)

I asked officer Paguada to log my two calls, including the fact that the "supervisor could not come to the phone because she's in the back room." Absurd. And not letting the prisoner talk with someone?

Dick Lutz  
917 617-0449

---

From: Keith Guerra  
To: editor@mainstreetwire.com ; Stephen Shane  
Cc: Estrella Suarez  
Sent: Saturday, May 30, 2009 2:52 PM  
Subject: Re: It's happened again.

Dick,

I would expect you of all people to obtain the facts before you come to your own conclusions. The individual in custody is not there for taking pictures but for Disorderly Conduct. And I'm sorry, but you do not have the right to speak to a prisoner in custody. The officers are processing the paperwork so that the incident can be resolved.

---

>>> "Dick Lutz / The Main Street WIRE" <

editor@MainStreetWIRE.com> 5/30/2009 4:55 pm >>>

Keith,

I could not ascertain any facts before communicating with you because I could not talk with

either the supervisor (who put me on hold and would not subsequently come to the telephone) or the prisoner who, as you observe, was not permitted to make or receive calls (including, by his account, to his lawyer).

I invite the arresting officer to provide to The WIRE his first-person written account of the incident, from first encounter through release.

I have invited the resident to submit his. Fair is fair and I'll be happy to publish a full rendering of the incident as seen by each side can be published.

Thanks.

Dick

PS: My phrasing, "for taking a photograph" had reference to the apparent proximate cause, not to the eventual charge, and it should not be characterized as a "conclusion." As it happens, when I was arrested by PSD for taking a photograph, that was also the charge made against me.

---

----- Original Message -----

From: Keith Guerra

To: Dick Lutz / The Main Street WIRE

Cc: Fernando Martinez ; Stephen Shane

Sent: Monday, June 01, 2009 1:00 PM

Subject: Re: Thank you for responding

Dick

The incident was over who had proper permission to use a ballfield. A group of youngsters were using the field. When another group appeared with a proper permit in-hand, they told the group on the field that their time was up. The group on the field refused to relinquish the field, so the Public Safety Department was called.

When the Officers responded, they were shown the proper documentation for the oncoming group. They asked the group on the field if they had any documentation, to which the response was , "No." They had already run over the start time of the oncoming group, which was 1:30PM, so they were asked to turn over the field.

Apparently, everyone complied except for one man. He insisted on making this about the Public Safety Department and not about the fact that his group did not have permission to be on the field. When asked politely to leave the field, like the others had peacefully done, he refused and began taking pictures of the Public Safety Officers. The Arresting Officer explained to him that a group had shown proper documentation for the field, but he could care less. Continuing to remain on the field snapping pictures at the officers, he was again asked to leave the confines of

the field or he would be placed under arrest. This still did not engage the man, so he was removed and placed under arrest. Again, not for taking pictures, but for Disorderly Conduct.

Please explain to your readers that the Public Safety Department does not issue permits for field usage and does not police the use of the fields unless there is a conflict. To resolve conflicts, our officers will intervene to ascertain if someone or group has an official permit and will grant that person or group access to the area which they have properly secured.

As you know, our officers have undergone extensive training and their level of professionalism has increased. There are still some residents who want to make issues with the Public Safety Department - when all our officers are trying to do is their job. It is not our wish to make arrests, but some folks don't understand the consequences to their actions. Order must be kept and we are charged with that difficult duty.

As a side note, when someone is taken into custody, under arrest, they are not permitted to use their cell-phone, even if it is to call the Editor of the WIRE.

Keith Guerra, Director

---

>>> "Dick Lutz / The Main Street WIRE"  
<editor@MainStreetWIRE.com> 6/1/2009 1:53 pm >>>

Keith,

Will this be PSD's statement on the matter?

If not, can you provide it by Friday or so?

If it is final, are you willing to have the arresting officer answer questions (with you present, of course)?

Dick

---

----- Original Message -----

From: Keith Guerra

To: Dick Lutz / The Main Street WIRE

Sent: Tuesday, June 02, 2009 1:10 PM

Subject: Re: Thank you for responding

No, that's pretty much it. I'd rather you save the space to recognize Officer Forde's 20 years of service to the residents.

Regards,

Keith Guerra, Director

---

>>> "Dick Lutz / The Main Street WIRE" <

editor@MainStreetWIRE.com> 6/2/2009 3:25 pm >>>

Keith,

Repeating key question:

If it is final, are you willing to have the arresting officer answer questions (with you present, of course)?

As for saving space for something you'd prefer to see used, this field incident from last weekend is major community news. I'm not in a position to turn over to you the decision as to how space should be used in the paper; that's an editorial function for which I have to take responsibility as a journalist and editor. I'm not in a position to keep news from happening -- only in a position to report it as thoroughly as I can and made the necessary decisions about the importance of events and the space they need or deserve.

If Forde doesn't make the cut, it's still something that can run another time or, if it doesn't make it at all, it's the luck of the draw. But withholding access to further information about the weekend field incident isn't going to affect whether the Forde story gets used, but it could affect the thoroughness with which PSD's take on the field incident is reported.

In short, I recommend that you not consider the Forde matter in deciding whether or not to comment further on the field incident or in answering the question above.

Dick

---

----- Original Message -----

From: Keith Guerra

To: Dick Lutz / The Main Street WIRE

Sent: Tuesday, June 02, 2009 6:02 PM

Subject: Re: Thank you for responding

Dick

I fully understand it is your decision as to what gets printed in your paper. If you choose to give Officer Forde some space that would be great. If not, I understand the workings of what sells and what doesn't. Negative news sells and positive news doesn't. I'm not making any decisions based on whether you put something in your paper or not. I gave you my statement regarding what transpired. There will be no interview with the Officer because it's not about us. The issue is about who had permission to use the field and who didn't comply with a courteous lawful order. If you'd like to spin this into a big mess, that is your choice.

Keith Guerra, Director

---

Keith,

Your e-mail requires a direct answer:

1. I won't get into a debate with you about how I practice journalism but, for the record, *The WIRE* is distributed free and I don't have to "sell" papers. In any case, I happen to disagree with your belief that "negative news sells and positive news doesn't," though that is a common attitude among officials whose agencies come under journalistic scrutiny for one reason or another.
2. I have no personal, professional, or commercial interest in emphasizing negative news over positive news. Were I to ignore the story of what happened last weekend, it would not go away. Segments of the community are in something of an uproar.
3. Multiple reliable witnesses on the scene say that a PSD officer made the situation substantially worse by the way he handled it. One commented, "There is plenty of blame to go around, but it was Public Safety that escalated the situation and behaved unprofessionally."
4. When you write, "it's not about us," I believe you are missing an important dimension of this unfortunate matter. You apparently see it as a simple question of whether or not a resident refused a PSO's order. People in the community -- at least the several with whom I've spoken -- are less concerned with the resident's behavior and more concerned about how the arresting officer handled the situation before that and then from that point forward, including how the resident was treated at PSD HQ.
5. I urge you, in your own interest and in the community's interest, to investigate this matter personally to make sure you have full information.
6. I hope you are not taking the position that your agency is not answerable to the public.

From my interviews with witnesses, I have a series of questions. They follow. I hope you'll seek answers (see #5, above) for your own purposes and that you will provide a response to me other than "it's not about us."

7. Finally: Today, to respond to the intense community interest in this matter, I am preparing a report for next week's *WIRE*, though it will be posted earlier on the nyc10044.com website and made available to the bloggers. I urge you to respond to the questions below in time for inclusion of your responses in that report. Alternatively, please respond afterward so that the PSD viewpoint on this matter may be more

Dick

#### QUESTIONS:

1. Before PSD arrived on the scene, the off-island players agreed to allow the children on the field to finish their game (which apparently had only a half-inning to go), but a PSO stood on the pitcher's mound, prevented play, and overruled that agreement. (Are you aware of this?) Why was this an appropriate course of action?

2. A dependable witness says that Officer Toro bicycled across the field and "cut off" a group of residents who were in the process of leaving the field as ordered, then directed his remarks at Adib Mansour, who had photographed him. (Contrary to accounts on which you have apparently relied, he did not "start" taking photos at that point; the photographic record shows that he had taken many pictures before then.) Were you aware of this action by the PSO? Or do you have information to the contrary?

3. Another witness reports that, while Officer Toro was taking Mr. Mansour to PSD HQ, he told a plainclothes PSD officer to "Arrest that one, the one taking pictures." (The person to whom he had reference had taken over Mr. Mansour's camera and he was photographing the walk to PSD.) Does this suggest to you that photography, not misbehavior, might have been the PSO's concern?

4. Mr. Mansour claims, and is backed up by witnesses, that he did not refuse an order to vacate the field but, instead, merely said he wanted to take another picture, and that it was at that point that he was "shoved" by Officer Toro, and that only then did he raise his voice somewhat, saying "Take your hands off me." It is alleged that at that point Officer Toro dangled his handcuffs before Mr. Mansour, said he was about to "teach you a lesson," and cuffed him. Does this square with information you have received from your officers?

5. When asked by a resident to release Mr. Mansour, Officer Toro is reported to have said, "He disrespected me," giving that as a reason for the arrest. Is "disrespect" an adequate cause, in PSD procedures, for an arrest?

6. When Mr. Mansour informed Officer Toro, at PSD HQ, that he is diabetic and needed food to avoid insulin shock from his morning medication, Officer Toro (who said he, too, is

diabetic, indicating he knows the risks involved) is alleged to have said, twice, "I'll wait until you faint. Then I'll call an ambulance and take you to the hospital. Then I'll take you to prison." The second time, this was said within the hearing of other PSD officers. (One, to his credit, is said to have responded by getting Mr. Mansour a sugary drink, paying for it himself.) Does this square with information you've received from officers present at the time?

7. What specific disorderly conduct is alleged?

---

### **Response received Thursday morning, June 4**

Dick,

First and foremost, I would like to acknowledge that the incident which occurred on Saturday was unfortunate. Although there are several topics involved here, the one that most concerns me is the fact that the children had to witness a coach/parent being placed under arrest. I never want children to have a negative view of Law Enforcement and try hard to encourage positive interaction with the youngsters on the island. Suffice it to say, this incident will sit with those particular children for a while and that is truly unfortunate. I have no doubt that the subject who was summonsed is probably a nice man. From the accounts I received, he is respected in the community. Being human, I believe he made an error in judgement.

The Public Safety Department does not police the field or room usage permitted by RIOC. However, in a time of conflict, we will intervene to keep order. In this case, the officers were called to the scene of a dispute. A complainant, who was the recipient of obscene language and threats, made the call to Public Safety. When the officers responded, the copmplainant approached the officers who arrived. There was apparently alot of commotion at the field, but a legitimate permit for the field was produced. The holder of the permit asked that it be enforced. The officers tried to do their best in handling the situation and while I will not try and "Monday Morning Quarterback" them, I will also not try to protect them if I feel they did not carry out my objectives in conducting themselves in a professional manner.

You and I had an e-mail exchange, which is probably not the best way to communicate. After giving you my statement, which I believed to be sufficiently the end of our discussion, you sent another e-mail asking me if I would answer seven (7) questions for your coverage of this incident. Before I could provide the answers, you went ahead and printed an article without the information you sought to have included in it. I feel this was unfair. I have provided the answers to your questions below.

#### **QUESTIONS:**

*1. Before PSD arrived on the scene, the off-island players agreed to allow the children on the*

*field to finish their game (which apparently had only a half-inning to go), but a PSO stood on the pitcher's mound, prevented play, and overruled that agreement. (Are you aware of this?) Why was this an appropriate course of action?*

The supposed agreement, according to the Complainant in the incident, was never reached. Mr. Scott Batton, who initiated the call to Public Safety, approached the responding officers and told them he had a permit that was being ignored by the Little League coaches and parents. Obscenities and threats of bodily harm were spewed in his direction and all he wanted was to take the field his group had paid to use. When asked by me if any agreement was reached or could have been reached to allow the children to finish their game, he replied, "No. This was not the first time that the group had run over into the permitted time that our group had properly secured and we wanted them off the field." The officers had no other recourse other than to oblige the client in possession of a RIOC issued permit which they paid for.

*2. A dependable witness says that Officer Toro bicycled across the field and "cut off" a group of residents who were in the process of leaving the field as ordered, then directed his remarks at Adib Monsour, who had photographed him. (Contrary to accounts on which you have apparently relied, he did not "start" taking photos at that point; the photographic record shows that he had taken many pictures before then.) Were you aware of this action by the PSO? Or do you have information to the contrary?*

The information that I gathered indicates that all parties who were asked to leave the confines of the field obliged, except for the subject who was placed under arrest. They did not seem like they wanted to, but they did. The subject who was arrested refused to leave the confines of the field, continuously snapping pictures of Officer Toro and was arrested for refusing to disperse when given the lawful order to do so. My question is why couldn't the subject just oblige, like the others had done?

*3. Another witness reports that, while Officer Toro was taking Mr. Monsour to PSD HQ, he told a plainclothes PSD officer to "Arrest that one, the one taking pictures." (The person to whom he had reference had taken over Mr. Monsour's camera and he was photographing the walk to PSD.) Does this suggest to you that photography, not misbehavior, might have been the PSO's concern?*

This does not suggest to me that the photography was the officer's concern. The information that I gathered does not indicate that anyone else was to be arrested. Had an officer asked another to arrest someone, that person would have likely been taken into custody as well. This did not occur. In the arresting officer's account of the incident, he cited the other individual taking pictures, but indicated that the man was compliant to the verbal direction not to stand in the path of the escort.

*4. Mr. Monsour claims, and is backed up by witnesses, that he did not refuse an order to vacate the field but, instead, merely said he wanted to take another picture, and that it was at that point that he was "shoved" by Officer Toro, and that only then did he raise his voice somewhat, saying "Take your hands off me." It is alleged that at that point Officer Toro dangled his handcuffs*

*before Mr. Monsour, said he was about to "teach you a lesson," and cuffed him. Does this square with information you have received from your officers?*

No. This does not square with the information I received from the Officers or the Complainant. Again, I ask the question, why couldn't he just vacate the field when asked to do so, like everyone else did. The accounts I received were that the subject was asked at least three (3) separate times to comply and was met with resistance. Corroborating stories state that the subject even asked Officer Toro if he was going to arrest him, to which Officer Toro explained the consequences of not complying.

*5. When asked by a resident to release Mr. Monsour, Officer Toro is reported to have said, "He disrespected me," giving that as a reason for the arrest. Is "disrespect" adequate cause, in PSD procedures, for an arrest?*

In my experience, officers do not release subjects in custody because they are asked by residents to do so. Of course, "disrespect" alone is not adequate cause to arrest someone, however, if the totality of circumstances includes disrespecting an officer, the person can be charged.

*6. When Mr. Monsour informed Officer Toro, at PSD HQ, that he is diabetic and needed food to avoid insulin shock from his morning medication, Officer Toro (who said he, too, is diabetic, indicating he knows the risks involved) is alleged to have said, twice, "I'll wait until you faint. Then I'll call an ambulance and take you to the hospital. Then I'll take you to prison." The second time, this was said within the hearing of other PSD officers. (One, to his credit, is said to have responded by getting Mr. Monsour a sugary drink, paying for it himself.) Does this square with information you've received from officers present at the time?*

This does not square with the statements of the officers, who independently stated that Officer Toro did inform the subject that he was also a diabetic and asked if the subject was ok. When the response was that he felt he needed something with sugar, Officer Payne got the subject a soda. After drinking most of it, the subject then threw the bottle on the floor. When asked by Officer Payne if he was ok, the subject said, "Yes." and thanked Officer Payne for the drink. Shortly thereafter, the subject again stated that he was diabetic and Officer Toro indicates that he told him that if he needed any medical attention, it would be provided for him before being taken to Central Booking. After conferring with his supervisor, Officer Toro wrote a Summons instead of processing the subject through the system.

*7. What specific disorderly conduct is alleged?*

The Statute includes seven (7) subdivisions, of which I will cite three (3):

A person is guilty of Disorderly Conduct when, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof: 3.) he/she uses abusive or obscene language; 6.) he/she congregates with other persons in a public place and refuses to comply with a lawful order to disperse; 7.) he/she creates a hazardous or physically offensive condition by any act which serves no legitimate purpose. Disorderly Conduct is a Violation.

I would also like to ask you to correct a quote of mine where you printed that I stated that "prisoners are not allowed to make or receive phone calls." What I said to you was that "when someone is taken into custody, under arrest, they are not permitted to use their cell-phone."

Going forward it is my hope and the hope of the many residents I have spoken with over the last couple of days that the community can move forward in a positive direction. Everyone must pitch in to be part of the solution - not be part of the problem. I vow to continue providing training for my officers and to continue with the information summits and safety programs I have initiated. Hopefully, the community can contribute to fostering a better relationship with the Law Enforcement Officers who serve their community with pride.

Keith Guerra, Director  
Roosevelt Island  
Department of Public Safety

---

6/4, 9:35 a.m.

Keith,

Thank you for reversing your decision regarding providing further information, and answering the seven questions I raised. I agree that an e-mail exchange is not ideal as a means of communication, and I would always prefer to do a *recorded interview in person*, which produces a clear record that can be checked. That's why I asked for (and repeat my request here as a matter of record and journalistic obligation) an opportunity to interview Officer Toro (and I should add Officer Payne to that, as well), with or without you present (your option). On the other hand, the e-mail exchange also produces a clear record, including your earlier decision not to provide an additional statement about the incident. Again, I appreciate your reconsideration of that decision and the fact that it will present your views of this matter more thoroughly.

I have now updated the draft report at <http://nyc10044.com/wire/2919/arrest.html>, as well as the record of our e-mail exchange (which will further be updated with this e-mail to you). For completeness of detail in my report, it would be useful to know the length of Officer Toro's service record and, if you would share the information, any previous allegations of misconduct on his part. Naturally, you can also provide information about citations and other honors.

I found our exchanges last evening at the RIOC office to be useful and appreciated the fact that Steve and you (and other RIOC personnel) were willing to include me in the meeting you had scheduled with Frank Farance. I also appreciate your willingness to deal *separately* with issues raised by Frank's communications and by my reporting.

In our conversation, I believe you said that Adib Mansour had created a problem on an earlier occasion. We did not pursue that subject at the time because the focus of our conversation was

my reporting. Can you provide details on the previous charges (or incident, even if it did not lead to a charge)?

Reminder: Please provide me with the name and phone number of the May 30 complainant (and/or "permit holder") so that I can follow up on that information. Specifically, I would like to find out if he was aware of the alleged agreement, supposedly reached before PSOs arrived, that the Little League game could be finished before the visitors took the field. If s/he was aware of it, I will ask whether he told the officers about it. (One of my sources on that agreement is Michael Shinozaki, as I reported in the draft at <http://nyc10044.com/wire/2919/arrest.html>. I am checking further with Mike and one additional source.)

In your response to question 3, you write "*The information that I gathered does not indicate that anyone else was to be arrested.*" I find that somewhat less than a categorical denial that Officer Toro wanted another arrest. Again, the allegation made is that Officer Toro said something very close to, "Arrest that one, the one taking pictures," during the escort to PSD, and the surmise presented with it is that the other officers present disregarded that request because they did not consider it reasonable under the circumstances they were observing. *Does Toro, and do the other officers present, categorically deny that Toro made a request of this kind?*

As done with earlier e-mails requesting information, I am copying Steve Shane on this e-mail as a matter of courtesy. As always, I'm ready to receive information from all RIOC personnel, not the least, you and Steve.

Thank you, again, for your willingness to provide additional information and investigate further.

Dick

---

**From:** Keith Guerra  
**To:** Dick Lutz / The Main Street WIRE  
**Cc:** Stephen Shane  
**Sent:** Thursday, June 04, 2009 12:30 PM  
**Subject:** Re: Thank you / follow-up

Dick,

I am glad that you have made an earnest attempt to give all sides of a very unfortunate situation. While I can appreciate your journalistic obligation to ask to interview the officer involved in this incident, I do not understand why you feel the need to continue asking the same question over and over again. As I indicated in my e-mail correspondence and again in person at our meeting yesterday, under the advisement of our Legal Counsel, I cannot grant you permission to interview the officer. Officer Toro is an eight (8) year veteran of our department with no prior complaints and Officer Payne has been an officer for four (4) years with no prior complaints filed against him.

To clear an inconsistency, I did not say that Mr. Mansour created a problem on an earlier occasion, but rather that he was involved in a prior report (4/25/09) of a dispute over the fields with the same group. I have spoken to Mr. Scott Batton, the complainant in this incident. He has also e-mailed me his account of the story. In both instances, he adamantly denies reaching any agreement with anyone to allow the game to continue. I'm sure others may have been trying to negotiate something, but not with him – the holder of the permit. He was clear and specific to the officers that he wanted the game to stop and be allowed to take the field his group had pay to use. I asked him if he would speak to you so that you may hear it for yourself - first hand and he agreed to do so. Please call me for his number as he does not want it publicized in a public forum.

Keith Guerra, Director  
Roosevelt Island  
Department of Public Safety

---

Friday, June 5

Keith,

Thanks.

I have spoken with Scott Batten. The written account you received from him is now included in the attachments on the website draft report, and his comments are reflected in the draft article.

With regard to my repeated requests to interview the officer(s) involved, you write, “I do not understand why you feel the need to continue asking the same question over and over again.”

You will recall that you wrote, in an e-mail, that there would be nothing further from PSD regarding this matter “because it's not about us,” but changed your mind when I sent seven questions I felt deserved answers. This makes it clear to me that such decisions are not always final. It is my obligation as a journalist to seek information, sometimes relentlessly, on behalf of my readers. Therefore, I do.

I understand that you have said “no.” I don't think it is necessarily the best decision but, as Steve Shane pointed out in the meeting Wednesday evening, there could be litigation and, that being the case, it may be in RIOC's and PSD's interest to say “no” to such a request. That does not automatically mean that such a decision is necessarily in the *community's* interest. The interest of the readership served by *The WIRE*, not PSD's or RIOC's interest, must be *my* guiding concern. For example, I'm sure people in the community would like to know more about the on-the-spot reasoning of the arresting officer in a case where many have expressed the view that such an arrest may not have been necessary, or may have been avoided by relatively minor changes in behavior.

For both these reasons, I have repeated the request to interview the officer(s) involved.

Dick

---